

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: Senior Health Insurance :
Company of Pennsylvania :
(In Rehabilitation) : No. 1 SHP 2020

ORDER

AND NOW, this 7th day of July, 2022, upon consideration of the Statutory Rehabilitator's Petition for Issuance of Rule to Show Cause as to Plan Injunction Actions (Application) on James J. Donelon, Commissioner of Insurance for the State of Louisiana, and Michael Wise, Acting Director of the South Carolina Department of Insurance (collectively, Respondents), the Court hereby issues the Rule to Show Cause and ORDERS as follows:

- (1) Respondents must show:
 - (a) On what authority they purport to supplant this Court's exercise of its exclusive *in rem* jurisdiction over the assets of Senior Health Insurance Company of Pennsylvania (in rehabilitation) (SHIP) and the interests of affected policyholders;
 - (b) On what basis the policies subject to the injunctions obtained by Respondents in Louisiana and South Carolina (Excluded Policies or Policy) should be treated differently from all other SHIP policies;
 - (c) Why the pending proceedings before this Court and the Supreme Court of Pennsylvania are not and should not be the exclusive fora for management and distribution of SHIP's assets, and for evaluation of the Approved Plan of Rehabilitation for SHIP (Approved Plan);
 - (d) The legal foundation for Respondents' assertion that the courts in South Carolina and Louisiana have sufficient jurisdiction and

authority to circumvent the orders of this Court and the Supreme Court of Pennsylvania, and to direct the Rehabilitator and Special Deputy Rehabilitator regarding implementation of the Approved Plan;

- (e) What steps Respondents have taken to date to impede SHIP's rehabilitation or otherwise force SHIP into liquidation, including but not limited to any legal or administrative proceedings begun or pursued by Respondents, any other communications related to SHIP or the Approved Plan sent to SHIP's policyholders, and any communications with the regulators of any other state designed to impede SHIP's rehabilitation;
- (f) What measures Respondents have implemented or propose to implement as to the Excluded Policies to avoid unlawful preferences, harm to the holders of the Excluded Policies and other adverse consequences of their injunctions;
- (g) Why the Excluded Policies issued in Louisiana and South Carolina should not be treated as opt-in policies under the Approved Plan;
- (h) Why an Excluded Policy issued in a state other than Louisiana or South Carolina, even if the policyholder now resides in Louisiana or South Carolina, should not be governed by the decision of the chief insurance regulator of the state in which the Excluded Policy was issued with respect to the opt-out provision in the Approved Plan;
- (i) Why Respondents should not be ordered to withdraw their litigation and cause the injunctions they have procured against implementation of the Approved Plan to be dissolved immediately so that the holders of Excluded Policies may make elections under the Approved Plan; and
- (j) Why, in the event Respondents cannot address these issues to the Court's satisfaction, the Court should not enter an order providing that:
 - i. Effective on the later of ninety days from the date of this

Order or the date as of which Opt-In Policies¹ are modified under the Approved Plan, the Maximum Benefit Period of every Excluded Policy shall be adjusted to what can be funded by the current premium (whether or not waived) on an If Knew premium basis, subject to a guaranty fund “floor” consistent with Subsection VI.5 of the Approved Plan.

- ii. Within sixty days of the date of this Order, the holder of any Excluded Policy affected by the previous paragraph may request from the Rehabilitator (a) the impact of a modified calculation of the Maximum Benefit Period consistent with the Order, and/or (b) information about how his or her policy would change if he or she elected one of the Opt-in Options as described in Section III of the Approved Plan.
- iii. Each holder of any Excluded Policy shall have the right to make an alternative election from among the Opt-in Options by communicating the same in writing to the Rehabilitator no later than ninety days after entry of this Order.
- iv. The Rehabilitator shall serve a copy of the Order on the holder of any Excluded Policy in a manner compliant with Pennsylvania Rule of Civil Procedure 404. In addition, the Rehabilitator shall post this Order on the websites of SHIP and the Pennsylvania Insurance Department, just as has been done with prior orders of this Court. Such service of the Court’s Order and posting on SHIP’s website shall not constitute a communication by the Rehabilitator with policyholders in violation of the Louisiana and South Carolina preliminary injunctions.
- v. The Rehabilitator is hereby authorized to take any steps reasonably necessary to implement the requirements of this Order.

¹ Capitalized terms in this section shall have the meanings ascribed to them in the Approved Plan.

- vi. This Order is within the Court's ancillary authority under Pennsylvania Rule of Appellate Procedure 1701 and does not constitute an amendment to the Approved Plan.
- (2) The Rehabilitator shall serve this Rule to Show Cause on each Respondent. Respondents shall answer the rule within 20 days of service;
- (3) The request for relief shall be decided in accordance with the procedure stated in Pennsylvania Rule of Civil Procedure 206.7 as modified by this Court in the exercise of its statutory authority over these proceedings; and
- (4) Oral argument and an evidentiary hearing on disputed issues of fact, if any, shall be scheduled by separate order.



MARY HANNAH LEAVITT, President Judge Emerita